

Defendants filed a second motion for default. Pursuant to the Local Rules of the United States District Court for the Eastern District of Missouri, Plaintiffs' response to the motion for default was due by July 24, 2019. *See* E.D. Mo. L.R. 4.01(B). On July 25, 2019, Plaintiffs filed their Response to Defendants' Counterclaim. Plaintiffs did not seek leave to file this pleading out of time. Plaintiffs also have not responded to Defendants' motion for default.

Because Plaintiffs' Response to Defendants' Counterclaim was not timely filed and Plaintiffs did not seek leave to file it out of time, the Court finds that this pleading should be stricken from the record. However, in light of the judicial preference for adjudicating claims on the merits and the fact that Plaintiffs have now attempted to file an answer to Defendants' counterclaim, the Court finds it inappropriate to grant Defendants' motion for default without giving Plaintiffs the opportunity to explain the reasons for the delay and to seek leave to file their answer to Defendants' counterclaim out of time pursuant to Rule 6(b)(1)(B). Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' Response to Defendants' Counterclaim (Doc. 32) shall be **STRICKEN** from the record.

IT IS FURTHER ORDERED that Plaintiffs shall have until **Friday, August 2, 2019** to file a motion for leave to file an answer to Defendants' Counterclaim out of time, along with a proposed answer. Failure to comply with this order may result in the entry of default judgment against Plaintiffs on Defendants' counterclaims.



SHIRLEY PADMORE MENSAH
UNITED STATES MAGISTRATE JUDGE

Dated this 29th day of July, 2019.